

**Sincerely,**

**SCOTT ASHLEY  
17802 n 69 ave  
glendale, Arizona 85308**

**From:** saashle@uswest.net  
**To:** Michael Copps  
**Date:** Wed, Apr 2, 2003 4:59 PM  
**Subject:** Preserve Media Diversity: Keep the FCC Rulemaking an Open Process

FCC Commissioner Michael C. Copps

Dear FCC Commissioner Michael C. Copps,

The Federal Communications Commission (FCC) is currently considering sweeping changes to broadcast ownership rules. Repeal or significant modification of these rules would likely open the door to numerous mergers that could reduce competition and diversity in the media.

Before the media ownership rules are issued in final form, the public must have the opportunity to review and comment on any specific changes the Commission plans to make.

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While the Commission issued a Notice of Proposed Rulemaking on media ownership, it proposed no actual rule. Accordingly, no public comment has been received on any specific changes. We believe that additional input from the public will help the Commission **see** the strengths and weaknesses of any new approach.

I encourage you to provide a detailed description of all proposed changes, their empirical basis, and a meaningful period of time for the public to review and comment on any proposed changes before a final rule is issued.

The stakes for citizens and the nation are enormous. More information, not less, about proposed changes would best serve the public interest. Indeed, we hope the Commission would do everything in its power to keep the rulemaking process as open and inclusive as possible.

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**From:** eric.thompson@ni.com  
**To:** Kathleen Abernathy  
**Date:** Wed, Apr 2, 2003 5:09 PM  
**Subject:** Preserve Media Diversity: Keep the FCC Rulemaking an Open Process

FCC Commissioner Kathleen Q. Abernathy

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Eric Thompson  
8701 W Parmer Ln #11331  
Austin, Texas 78729

**From:** eric.thompson@ni.com  
**To:** Mike Powell  
**Date:** Wed, Apr 2, 2003 5:10 PM  
**Subject:** Preserve Media Diversity: Keep ~~the~~ the FCC Rulemaking an Open Process

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**From:** gpinkel@pacifier.com  
**To:** Kathleen Abernathy  
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system with the last go-round of de-regulation. The American people deserve a free, open and diverse press in order to maintain their ability to make decisions fully informed. They exist at our sufferance and should serve the common good - not just commercial corporate bottom line mentality.

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Georgia Pinkel  
**2718** Falk Rd  
Vancouver,, Washington 98661

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**To:** Michael Copps  
**Date:** Wed, Apr 2, 2003 5:56 PM  
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**From:** trdaily@tr.com  
**To:** KathleenAbernathy  
**Date:** Wed, Apr 2, 2003 6:02 PM  
**Subject:** TR Daily, 2 April, 2003

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Telecommunications Reports presents....

TR DAILY  
April 2, 2003

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For a Web version of today's TR Daily, go to  
<http://www.tr.com/online/trd/2003/td040203/index.htm>

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### TELECOM REGULATION

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#### FCC COMMISSIONERS MULL DRAFT OF 'TRIENNIAL REVIEW ORDER'

The FCC Commissioners now have a draft of the much-anticipated "triennial review" order in their hands, sources said, but it will likely be late April or early May before the order is finished and released. In a contentious split vote, the Commissioners voted on the order at the

FCC's Feb. 20 meeting, but they didn't have a full draft of the order, as it was approved, when they voted.

The Wireline Competition Bureau staff has had to write a draft order over the last several weeks, blending pieces that were in Chairman Michael K. Powell's proposed draft order with new provisions that were adopted over his dissent - most notably, the controversial provisions regarding access to unbundled switching.

While the staff has worked on the order, the FCC has remained in a "sunshine" period, barring parties from lobbying the Commission on triennial review matters until the order is completed. Presentations are allowed, however, if they are requested by agency officials. One such presentation was made last week, as Covad Communications Co., at the request of Commissioner Kevin J. Martin, outlined its request that the agency issue a "sua sponte" reconsideration of its decision to end "line sharing."

Covad outlined its case for the reconsideration of the vote to phase out line sharing in a Feb. 25 ex parte filing, and company officials met with Commissioner Martin and his senior legal adviser, Dan Gonzalez, March 31 to discuss the filing, according to an ex parte filing submitted today. Commissioner Martin, along with Commissioners Michael J. Copps and Jonathan S. Adelstein, voted to end line sharing.  
- Brian Hammond, bhammond@tr.com

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REPORTS MI RESULTS  
ON INFRASTRUCTURE PROTECTION

Federal agencies have made some progress on protecting critical infrastructures, including telecommunications networks, but additional steps remain to be implemented, according to a newly released General Accounting Office report. GAO also found that a private-sector Information Sharing and Analysis Center (ISAC) for the telecommunications industry was in the process of taking recommended steps to protect the sector's infrastructure.

The GAO report, requested by House Energy and Commerce Committee Chairman W. J. (Billy) Tauzin (R., La.) and Ranking Member John D. Dingell (D., Mich.), examines efforts by four federal agencies and private-sector ISACs in implementing recent executive orders and directives on infrastructure protection.

The telecommunications infrastructure ISAC was established as a function of the National Coordinating Center for Telecommunications, a government-industry operational and collaborative body within the National Communications System. NCS is now being transferred and becoming a part of the Department of Homeland Security.

GAO found that the telecom ISAC had successfully implemented recommendations to serve as a clearing house within and among sectors and to report incidents to the National Infrastructure Protection Center. The ISAC's efforts on two other issues - establishing baseline statistics and providing a library of historical data to the private sector

and government " were classified as "in progress."

Addressing the federal agencies, GAO said further action was necessary on identifying and analyzing "critical infrastructure assets and the operational dependencies of these vital assets on other public and private assets." GAO said the next steps would be to conduct or update vulnerability assessments, manage identified vulnerabilities, and ensure that the assets are "appropriately considered in planning for the continuity of essential agency operations." • Brian Hammond.  
bhammond@tr.com

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#### LORAL WINS SATELLITE LICENSE MODIFICATIONS

The FCC's International Bureau has modified Loral Space & Communications Ltd.'s licenses to launch and operate a satellite system in the geostationary-satellite orbit to provide fixed satellite service in the C, Ku, and Ka-bands. The bureau granted Loral's request to (1) relocate a C/Ku-band spacecraft, Telstar 4, from the 89 degrees West Longitude orbit location to 77 degrees W.L.; (2) launch Telstar 8 with C/Ku/Ka-band capacity into the 89 degrees W.L. slot; and (3) extend the milestone dates for Telstar 8 to accommodate Loral's three-band hybrid satellite technology. But the bureau denied Loral's request to extend construction and launch milestones associated with four other orbital slots. "These actions will allow Loral to provide new domestic and international satellite services to more customers using state-of-the-art technology while preventing warehousing of scarce spectrum and orbital resources," the bureau said.

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#### COMMENTS SOUGHT ON ORBIT ACT

The FCC is seeking comments on how privatization in the satellite services market has affected the telecom industry, employment, and access to overseas markets. The request for comments is part of the FCC's effort to prepare a report for Congress on the implementation of the Open-Market Reorganization for the Betterment of International Telecommunications (ORBIT) Act. The act requires the FCC to submit an annual ORBIT Act report to the Energy and Commerce and International Relations committees in the House and the Commerce, Science, and Transportation and Foreign Relations committees in the Senate. The next submission is due June 15. Comments are due April 17, and replies are due April 24. They should reference report no. SPB-183.

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#### COMMENTS SOUGHT ON WESTERN WIRELESS WAIVER

The FCC's Wireline Competition Bureau today asked for comments on Western Wireless Corp.'s request for a waiver of an Oct. 1, 2001, deadline for the company to certify that any universal service high-cost support it received would be used only for eligible equipment and

services. Western Wireless says the waiver is appropriate in light of the "extraordinary delays" it has experienced in being designated an "eligible telecommunications carrier" for the purpose of receiving universal service subsidies. The waiver will clear the way for Western Wireless to receive high-cost support for its wireless services in portions of South Dakota near the Pine Ridge Reservation. Comments are due May 2 in CC docket 9645. Replies are due May 19.

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## LEGISLATION

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### BURNS WANTS FCC-CONGRESS SUMMIT TO WORK THROUGH FUTURE OF USF

Conrad Burns, chairman of the Senate communications subcommittee, today called for a summit on the future of the Universal Service Fund (USF). During a subcommittee hearing to examine a broad range of USF issues, Sen. Burns (R., Mont.) said he did not have any concrete plans but said "it was time" for Congress and FCC to sit down to discuss where the Commission was headed and what help it might need from Congress to fix the USF program. "This is an issue that needs to be addressed," he said. "There is an urgency to it."

The big battle between rural incumbent local exchange carriers (ILECs) and wireless carriers over granting wireless companies "eligible telecommunications carrier" (ETC) status unfolded as expected during the hearing. But only Sen. Burns and a dwindling number of individual members' telecom aides were on hand to witness the fight.

Sen. Ernest F. Hollings (D., S.C.), ranking member of the subcommittee, stayed only to make an opening statement criticizing the FCC for its slow pace in addressing the USF issue. Sen. John McCain (R., Ariz.), chairman of the full committee, did not put in an appearance. Sources said Sen. McCain saw little need for USF-related legislation and was not focused on the issue.

Sen. Trent Lott (R., Miss.), who insisted that a wireless carrier from his state testify, was also a no-show. Sen. Ted Stevens (R., Alaska) arranged for a whole panel of witnesses to discuss the importance of universal service to Alaska, but he, too, did not attend.

Sen. Burns appeared to side with rural ILECs on their arguments that the states should more carefully scrutinize the granting of ETC status to wireless carriers, particularly on portability. "It would seem when customer A switches from ETC A to ETC B, A should lose the USF-supported line and B should gain it," he said.

He also said he would consider holding another USF hearing that would focus more narrowly on the ETC issue. "I like the debate to be at the table because I learn from that, and I think the rest of the committee does, too," he said. "I start a fight down there and let it flow."

During the hearing, Carson Hughes, chief executive officer of Telepax,

Inc., a wireless ETC in Mississippi, said universal service funding made it possible for his company to offer "all-you-can-eat" wireless service at \$49 per month for unlimited regional calling. "Citizens in rural areas depend on mobile phones more and more to provide critical communications needs," he said.

Telepax "played by the rules to apply for and obtain support, often enduring a process that is far more protracted and expensive than is necessary, opposed by well-financed incumbents backed by national organizations. Wireless carriers are capable of advancing Congress's twin goals of promoting universal service and competition in rural areas, if given the opportunity," he added. "In all fairness, if wireless subscribers are required to pay into the fund and support wireline networks, they must be permitted to obtain the benefits that the universal service system was designed to provide."

On other side of the issue, Matthew Dosch, vice president-external affairs of the Comporium Group, representing ILEC members of the U.S. Telecom Association, said Congress needed to step in immediately. "Congressional action must be taken quickly to stem a tide of devastating regulatory and legal decisions," he said.

Robert W. Orent, president and CEO of Hiawatha Communication, Inc., a small ILEC in Michigan, told TRDaily he was pleased with the questions from Sen. Burns and the tone of the hearing. "Our hope is that we have gotten their attention that this whole system is at risk and it's on its way to being broken and that the FCC and the state commissions need to be given some further guidance, some further direction," he said after his testimony.

"There were very good questions and what I was most impressed with was the fact that in many, many respects there was a lot of unanimity amongst all of us who are not part of the wireless community," he said. "That should, of and by itself, be something that is taken note of by this subcommittee."

Don Erickson, director of legislative affairs for the Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO), noted that when the subcommittee last looked at USF last year ETC issues received nary a mention. "The most significant thing that came out of this hearing was Sen. Burns squarely putting his attention on the ETC issue and portability," he said. "That's a big difference. He didn't get into that at all [last year] even in his opening statements." - Howard Buskirk, hbuskirk@tr.com

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#### ABERNATHY: FCC NEEDS CONGRESS'S HELP TO ENACT NEW USF CONTRIBUTION SYSTEM

FCC Commissioner Kathleen Q. Abernathy today said Congress should provide a more solid framework to help the Commission develop a formula for Universal Service Fund (USF) contributions that didn't rely so heavily on revenues from long distance calls. Commissioner Abernathy also warned that the Commission might not address possible changes to rules on granting competitors in rural areas

"eligible telecommunications carrier" (ETC) status until late 2004

Commissioner Abernathy noted that the FCC was already developing a new contribution methodology and was seeking a second round of comments to build a more solid record. But she said the FCC needed help from Congress.

The Telecommunications Act of 1996 "specifically states" that the FCC can "only target interstate revenues" for USF contributions, she said. "With bundling, it's becoming more and more difficult to isolate interstate revenues, and even if you isolate them, interstate revenues are being driven down," she said. "We'd love to move to a [different] contribution methodology. We got a lot of legal analysis that says we think we can do that, but we need to look into that further."

Commissioner Abernathy said she expected an immediate appeal of the final FCC decision on USF contribution. Congress could help the FCC survive a challenge. "I have no doubt that we will be taken to court, and I don't know where the court will land on this," she said. "We'd have much firmer ground if there was some specific statutory language changes." Without the change in the statute, FCC lawyers expect that a change in the contribution methodology "should be sustained," she said. "Whether it would be sustained would be another question."

But Sen. Byron Dorgan (D., N.D.), a senior member of the communications subcommittee before which Ms. Abernathy testified this morning, questioned whether the Commission needed help from Congress or just a push to move on USF reform. "They don't necessarily need legislative authority, but they need the will to do something," he told TRDaily. "They had the capability early on to establish the revenue sources to provide a broader source of revenue for universal service and did not do that and have been resisting ever since. I think it's a matter of will. . . . We're trying to light a fire under the FCC."

He added, "I'm going to take a look at the law. If there are ways that we can stimulate them or prod them or even change the law, I think we have to find a way to shore up the funding in the Universal Service Fund." He noted that the FCC itself had decided that contributions should be based largely on revenues from long distance calls. "I said to [former FCC Chairman] Reed Hundt, that's too small of a base, and even that base has shrunk," he said.

Commissioner Abernathy said she expected the FCC to issue new contribution rules by year-end. But on one of the most contentious issues of the hearing, rules for granting ETC status to competitive carriers, a decision may take longer. She said the federal-state joint board on universal service would hold a hearing on ETC issues this summer and issue a recommendation to the FCC by year-end. But she noted that it could take the FCC another year to work through the board's recommendations.

She defended the FCC against a stream of criticisms from senators that the FCC had been too slow to fix the USF program. "In the last 12 months [on the joint board] we've cranked through four decisions on

very critical parts of universal service funding. Now they are sitting at the FCC," she said. "The FCC needs to step up and start moving on a number of those proceedings, recognizing there's a lot of other proceedings [Congress] also wants us focused on like media consolidation."

She said she would welcome a summit on USF issues as proposed by Sen. Conrad Burns (R., Mont.), especially one that touched on the increasingly controversial federal "E-rate" program. "The summit on the E-rate made sense to me because we need to get our hands around the allegations that there's been some inappropriate manipulation of that fund," she said. "The senators' focus appears to be on long-term sustainability and viability of the fund and where do we go from here." - Howard Buskirk, hbuskirk@tr.com

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MARKUP SET FOR SPECTRUM FUND BILL

The House telecommunications and the Internet subcommittee today announced it had scheduled a markup of the Commercial Spectrum Enhancement Act (HR 1320) for April 9 at 10 a.m. The legislation, which would create a spectrum transition fund, is sponsored by subcommittee Chairman Fred Upton (R., Mich.) and appears to be steaming forward. Sen. John McCain (R., Ariz.), chairman of the Commerce, Science, and Transportation Committee, yesterday said he would introduce a Senate version probably before the Easter recess.

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TELECOM BUSINESS  
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CORPORATE TELECOM SPENDING TRENDS  
CONTINUE TO TIGHTEN, ANALYSTS SAY

Large corporations are continuing to tighten their 2003 spending budgets for telecom services, according to a recent UBS Warburg survey of chief information officers with budgetary authority over telecom spending at Fortune 100 companies. Voice service spending will continue to suffer the heaviest pricing pressure, the firm's analysts said during a conference call today, while spending on data services - which make up a smaller portion of the spending pie - may squeeze out some gains this year.

"There is extreme pricing pressure in telecom services," concluded Pip Coburn, UBS Warburg's global technology strategist. Respondents to the survey, he said, estimated that their companies' overall information technology spending would increase by 1.4% in 2003. When asked the same question three months earlier, respondents had predicted a 4% increase. Last summer, the respondents estimated that 2003 spending would decrease by as much as 1% or increase by as much as 3%. "If anything, I would be getting nervous about that range," he said today.

UBS Warburg's survey focused on expected telecom spending in the vaunted medium-to-large sized corporate "enterprise" market that long



has been a core market of service providers like AT&T Corp. and Sprint Corp. As they have expanded their product offerings, Bell companies have increasingly targeted the enterprise market as a means to capture large, longer-term contracts and offset continuing local access line loss trends.

'Spending trends in 2003 are consistent with 2002, as they are flat," said John Hodulik, UBS Warburg's wireline services analyst. He said 80% of survey respondents plan to delay spending on services, particularly on domestic long distance voice services, with small spending growth forecasted for 2003. "It balances each other out so that we get no growth," he said.

While voice service providers should have reason for concern about corporate spending, they have little to fear from adoption of voice over Internet protocol (VoIP) services. At least for the next few years, Mr. Hodulik said. Most survey respondents said their firms would not invest much in VoIP infrastructure this year or next, while 30% said the companies planned significant spending in that area in 2005. "You have to spend a lot [of money] to get over time, and companies are not willing to spend right now," the analyst said.

On the wireless front, the impact of local number portability (LNP) will be a big one for carriers, thus affecting "churn" rates, Colette Fleming, senior vice president at LNP Consultants, said. "The rules are not set to take effect until late 2003, and implementation could be delayed even longer by lawsuits and regulatory wrangling."

Any delay in LNP implementation, she reckoned, would erode a short-term benefit to AT&T Wireless Services Inc., which has made a bet on LNP. Carriers such as Sprint, which hold a smaller share of the market, would benefit. LNP rules were put into effect by John Curran, jcurran@tr.com

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**QWEST DELAYS FILING ANNUAL REPORT,  
 BUT DELAY WON'T HINDER CREDIT ACCESS**

Qwest Communications International, Inc., confirmed late yesterday that it would not file its 2002 annual 10K financial report on time with the Securities and Exchange Commission. The company cited an ongoing review of its 2000-2002 financial records by outside auditor KPMG LLP.

The review of those records, which are the subject of SEC and Department of Justice investigations, is expected to result in the restatement of \$2.2 billion of revenues from 2000 and 2001, Qwest said in February. The questionable revenues were tied to capacity swaps and nonrecurring equipment sales, among other transactions.

"The complexity of these restatements, and their impact on the multi-year audits, has resulted in a lengthy and time-consuming process, which is the primary cause for these delayed filings," the company